

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 28TH DAY OF JULY 2003, AT 7:15 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Larry N. Rush	-Chair
	Annette S. Perkins	-Vice Chairman
	Gary D. Creed	-Supervisors
	James D. Politis	
	C.P. Shorter	
	Jeffrey D. Johnson	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	T.C. Powers, Jr.	-Planning Director
	Steve Sandy	-Zoning Administrator
	Robert C. Parker	-Public Information Officer
	Judy Kiser	-Assistant to County Administrator
ABSENT:	Mary W. Biggs	-Supervisors
	John A. Muffo	

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Chair called the meeting to order and the Pledge of Allegiance was recited.

PRESENTATION OF RESOLUTION OF COMMEMORATION - SCOTT ALLEN HYLTON

Chair Rush presented a framed resolution of commemoration to Mrs. Kris Hylton in remembrance of her husband, Scott Allen Hylton. Mr. Hylton, a Christiansburg Police Officer, was killed in the line of duty on May 9, 2003.

PUBLIC HEARINGS

Special Use Permit

Jeanette Shepard Orlic requests a Special Use Permit on a 15.385 acre tract in Agriculture (A-1), with possible conditions, to allow an additional family subdivision of property in excess of the four (4) divisions allowed under sliding scale. The property is located on the west side of Waterworks Road approximately 1400 ft. north of the Crabapple Road intersection, and is identified as Tax Parcel No. 64-A-71 (Acct ID # 026235) in the Prices Fork Magisterial District. The property currently lies in an area designated as Rural in the Comprehensive Plan.

The Zoning Administrator provided a video and brief explanation of the request. The applicant, Jeanette Orlic, requests a special use permit to allow the division of a 15.385 acre lot into five lots. Mr. Orlic plans to give each of her four children a lot and retain one for herself. Under the current zoning ordinance, a property owner is permitted four divisions with a 15 acre tract. At their July 9, 2003 meeting, the Planning Commission found this request to be in conformance with the comprehensive plan and recommends approval to the Board of Supervisors with two conditions.

Jeannette Orlic spoke on behalf of her request and asked for clarification of the conditions. Ms. Orlic asked if the property was divided into four parcels that was permitted by right would she still be required to construct an entrance lane. The Zoning Administrator explained that a turn lane was required only if divided into five lots.

There being no further speakers, the public hearing was closed.

PUBLIC ADDRESS

Debra Graff addressed the Board with concerns about Brush Creek Road and the need for additional repairs. Ms. Graff stated that VDOT has completed repairs on two sections on Brush Creek Road. The first repair consisted of widening one portion of the road to 18 feet and they have done a wonderful job. The seconded repair was supposed to have widened another portion of the road, but due to a piece of heavy equipment getting stuck in the embankment, 3 ft of the road bed was lost making the edge of the road unstable and dangerous to drive on. She asked that VDOT be requested to come back and repair this section that was damaged. Ms. Graff reported another section on Brush Creek Road is in need of repair and hopes the County can get this section repaired also.

There being no further speakers, the public address session was closed.

PUBLIC HEARINGS CONTINUED

Rezoning Request and Special Use Permit

Kevin Fletcher and S.A. Davie request to rezone 15 acres of a 76 acre tract from Agriculture (A-1) to Community Business (CB), with possible proffered conditions, and a Special Use Permit with possible conditions to allow an outdoor recreation paintball facility. The property is located at 6501 Blue Springs Road, and is identified as Tax Parcel No. 142-A- 2-7 (Acct. ID # 000317) in the Riner Magisterial District. The property currently lies in an area designated as a Conservation/Rural in the Comprehensive Plan.

The Zoning Administrator provided a video and explanation on the request. The applicants, Kevin Fletcher and S.A. Davie, are requesting to rezone 15 acres of a 76 acre lot from Agriculture to Community Business and a Special Use Permit to allow an outdoor recreational facility for paintball practice, tournaments, and public play. The property is located on Blue Springs Road which is predominately agriculture and forest land. Several concerns were discussed by the Planning Commission on this request. One being the significant impact due to the increased traffic on Blue Springs Road due to the road being a rural two-lane road that is primarily gravel. Other concerns addressed were trespassing onto adjoining properties, waste disposal, noise and parking. At their July 9 and July 17, 2003 meetings, the Planning Commission found this rezoning request and special use permit request to be in conformance with the comprehensive plan and recommended approval to the Board of Supervisors with nine proffered conditions.

Mark Black, attorney spoke on behalf of the applicants. He commended the county staff on this project, they have been very cooperative with the applicants in trying to work out the issues before the request went to the Planning Commission and the Board of Supervisors. They want to cooperate and do what is best for Montgomery County. Mr. Black believes this request is not spot zoning and it benefits all citizens of the county. He requested the Board to do what is best for the County.

Erma W. Cox spoke in opposition to the proposed request. Ms. Cox expressed concerns with noise, trespassing and trash from the proposed paintball recreational field. The adjoining property is owned by her parents and they have worked hard to maintain a farming business and believes a paintball recreational field will hinder their business.

Rachel W. White spoke in opposition to the proposed request. Mrs. White is the adjoining property owner and owns the right-of-way easement to access the property in question. She expressed concerns with using this right-of-way for a public purpose. Mrs. White also expressed concerns about potential noise and trespassing that will come from the paintball tournaments and wonders who will police this property. Mrs. White submitted a petition with names of 18 adjoining property owners who oppose the request.

Matt Davie spoke in support of the proposed request. Mr. Davie participates in the paintball activities and explained that the people who attend the tournaments are very respectful of other people's property. He stated he will be operating this business and the property will be cleaned up after each use. Mr. Davie said the adjoining property owners will not have to worry about trespassing since the participants will be coming to play paintball, not to joy ride and have parties. Travis Decker spoke in support of the proposed request. Mr. Decker has worked in the business of paintball for years and asserted that paintball is a national recreational activity, not a war game. He believes this is an activity that helps keep teenagers off the streets and out of trouble.

Larry Linkous spoke in support of the proposed request. Mr. Linkous supports the promoting of recreation and economic development for the County. He believes there should be more recreational fields in the county. When recreational fields are built they are used, citing the soccer fields at the new Blacksburg Middle School and the Huckleberry Trail, as examples. Also, holding tournaments will have a positive economic impact on the County with increased sales in hotel accommodations, gas, and food. This will increase the tax base in the county which will help eliminate the need to raise real estate taxes. Mr. Linkous asked the Board to consider supporting this request to help promote recreational use and increase economic development in the county.

Kendall Clay, attorney for Mr. & Mrs. White, spoke in opposition of the request. Mr. Clay stated that this community will be effected by the rezoning. The applicants do not live in this community but the people who do live in the community are opposed to this rezoning. You will have a rural agricultural community that will be impacted by the location of a recreational activity and change the character of the community. Mr. Clay pointed out that the only access to this property is through a right-of-way on the White's property. A commercial oriented enterprise will significantly change the impact to the Whites property and change the dynamics of the right-of-way. Mr. Clay understands the legislative function of the Board of Supervisors but urged them to take a stand and make the best decision for the County.

Steve Davie, applicant and one of the owners of the property, stated he was available to answer questions. He went on to say he does not agree with everything that has been said tonight. Out of the twenty reported complaints to the Sheriff's Office about Blue Springs Road, only one concerned his property. He constantly cleans up trash dumped on his property and will continue to do so.

Dale Wade spoke in opposition to the proposed rezoning. While he appreciates both sides of the issue, a business should not be allowed in a rural agricultural setting. He chose to live in the area because of the rural nature and believes a recreational site is not suitable. He urged the Board to deny this request and keep the area rural.

There being no further speakers, the public hearing was closed.

CONSENT AGENDA

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously, the Consent Agenda dated July 28, 2003 was approved.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSENT DURING VOTE</u>
C.P. Shorter	None	Mary W. Biggs	Annette S. Perkins
James D. Politis			
Gary D. Creed			
Larry N. Rush			

Approval of Minutes Dated June 23 and June 30, 2003

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously, the Minutes dated June 23 and June 30, 2003 were approved.

Schedule Public Hearing - An Ordinance Amending Chapter 3, Entitled Animals

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board hereby schedules a public hearing for Monday, August 25, 2003 at 7:15 p.m., or as soon hereafter, at the Montgomery County Government Center, 755 Roanoke Street, Christiansburg, Virginia in order to hear the citizens comments on the following proposed ordinance:

An Ordinance Amending Chapter 3, Sections 3-7, 3-28, 3-28.5, 3-28.7, 3-33, 3-50 and 3-52 Respectively of the Code of the County of Montgomery, Virginia Entitled Animals in Order to Comply with Various State Enabling Changes.

Fairview District Home - Transfer from General Contingencies

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer is hereby authorized, as follows:

FROM:

950 General Contingencies (\$3,868)

TO:

910 Fairview District Home \$3,868

Said resolution transfers appropriated funds from General Contingencies for the Fairview District Home annual assessment.

Sheriff's Department - School Resource Officer Grant and Transfer from General Contingencies

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004, for the function and in the amount as follows:

321 School Resource Officer Grant Program \$44,053

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

424401 State Grants \$44,053

BE IT FURTHER RESOLVED, That a transfer is hereby authorized as follows:

FROM:

950 General Contingencies (\$27,871)

TO:

321 School Resource Officer Grant Program \$27,871

Said resolution appropriates the School Resource Officer Grant funds and transfers the local match.

Commonwealth's Attorney- Victim Witness Grant

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004 for the function and in the amount as follows:

551 Victim Witness Grant \$135,278

The sources of the funds for the foregoing appropriation are as follows:

Revenue Account

25511-424401	Victim Witness Grant	\$123,461
02-451205	Designated Fund Balance	<u>\$ 11,817</u>
	Total	\$135,278

Said resolution appropriates the Victim Witness Grant funds for FY 04 and the balance of the FY 03 grant for repayment to the Department of Criminal Justice Services.

Human Services - Family Functional Therapy Grant

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004 for the function and in the amount as follows:

521 Family Functional Therapy \$229,750

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

25216-424401	Family Functional Grant	\$229,750
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Said resolution appropriates Family Functional Therapy Grant funds for FY 04.

Sheriff - V-stop Grant

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2004, for the function and in the amount as follows:

321 Sheriff Grants \$17,385

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

424401 V-STOP Grant \$17,385

Said resolution appropriates the State V-STOP Grant program.

FY 2003-2004 Position Classification Plan

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia, hereby approves and authorizes the FY 2003-04 Position Classification Plan.

Speed Study Request - Altoona School Road (SR 793)

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

WHEREAS, The County Administrator has received a petition from concerned citizens requesting the Virginia Department of Transportation to conduct a speed study on Altoona School Road (SR 793) to consider lowering the speed limit to 25 mph. to improve the safety in this area; and

WHEREAS, Pursuant to the Board's policy adopted November 13, 1996, this petition contains the signatures of a least 50% of the property owners along the specified road.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby respectfully requests the Virginia Department of Transportation to conduct a speed study on said road to determine the feasibility of reducing the speed limit and posting the speed limit to improve the safety of this area.

Acknowledge -Speed Study on Riner Road (Route 8)

On a motion by C.P. Shorter, seconded by James D. Politis and carried unanimously,

WHEREAS, The Montgomery County Board of Supervisors requested a speed study be

conducted on Riner Road (Route 8) near Smith Creek Road to determine the feasibility of reducing the speed limit; and

WHEREAS, The Resident Engineer has responded that a speed study has been completed by VDOT's Traffic Engineering Division; and

WHEREAS, As a result of the speed study, the Department of Transportation does not recommend reducing the speed limit at this time and recommends this area remain 55 mph.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia acknowledges receipt of the Resident Engineer's report that no speed limit reduction on Riner Road (Route 8) near Smith Creek Road will be undertaken at this time and extends its appreciation to the Virginia Department of Transportation for the report.

OLD BUSINESS

Remove from the Table - Ordinance Amending Chapter 10, Entitled Zoning

On a motion by C. P. Shorter, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the following proposed amendments to the Zoning Ordinance are hereby removed from the Table:

1. An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-2
2. An Ordinance Amending Chapter 10, Entitled Zoning, Sections 10-21(4) to 10-27(4), 10-54 and 10-55
3. An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-22(3)
4. An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-41
5. An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-61

The vote on the foregoing motion was as follows:

<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Absent During Vote</u>
C. P. Shorter	None	Mary W. Biggs	Annette S. Perkins
James D. Politis		John A. Muffo	
Gary D. Creed			
Larry N. Rush			

An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-2

On a motion by C. P. Shorter, seconded by Gary D. Creed and carried unanimously,

ORDINANCE 2003-13

An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-2 of the Code of the County of Montgomery, Virginia Exempting Certain Farm Buildings and Structures Not Used for Residential Purposes From the Application of the Zoning Ordinance

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, Section 10-2 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

Sec. 10-2. Application of chapter.

(1) *Territorial application.* The regulations and restrictions in this chapter shall apply to all buildings, structures, land, water and uses within the unincorporated area of Montgomery County, Virginia, excepting those areas determined by law to be under the sovereign control of the United States of America or the Commonwealth of Virginia.

(2) *General application.* All buildings and structures erected hereafter, all uses of land, water or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this chapter shall likewise be subject to all regulations of this chapter.

Existing buildings, structures and uses which do not comply with regulations herein shall be subject to the provisions of article IV (section 10-47) of this chapter relating to nonconformities.

(3) *General prohibition.* No building or structure, no use of any building, structure or land, and no lot of record now or hereafter existing shall hereafter be established, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this chapter.

(4) *Compliance with chapter required.* All departments, officials and public employees of the county that are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit if issued in conflict with the provisions of this chapter shall be null and void.

(5) *Exemptions.*

(a) Pursuant to section 56-46.1 of the Code of Virginia, electrical transmission lines of 150 kV or more, approved by the State Corporation Commission, shall be deemed to have satisfied the requirements of this chapter. In addition, the following utility uses are exempt from the provisions of this article: poles, wires, cables, conduits, vaults, laterals, pipes, valves, meters or any other similar equipment when used for the purpose of distributing service to individual customers within an approved or established service area, but not including telecommunications towers, plants, substations, major transmission lines, or trunk lines located on or above the surface of the ground, for any type of utility service, nor for underground trunk lines providing public water or sewerage service.

(b) Except for provisions of the Airport Safety Overlay District (section 10-38) the height limitations of this chapter shall not apply to antennas less than sixty-five (65) feet in height, cupolas, barns, silos, farm buildings, chimneys, flag poles, water tanks, and monuments and necessary mechanical appurtenances not exceeding in height the distance therefrom to the nearest lot line.

(c) Farm buildings and structures shall be exempt from the application of this Chapter when the buildings and structures meet the minimum front, side and rear setbacks within the zoning district and the buildings and structures are located on property where farming operations take place and the property is primarily used for any of the following uses or combinations thereof.

(1) Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced on the farm;

(2) Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;

(3) Business or office uses relating to the farm operations;

(4) Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;

(5) Storage or use of supplies and materials used on the farm; or

(6) Implementation of best management practices associated with the farm operations.

This exemption does not apply to a building or a portion of a building located on a farm that is operated as a restaurant as defined in §35.1-1 of the Code of Virginia and licensed as such by the Board of Health under Chapter 2 (§35.1-11 et seq.) of Title 35.1 of the Code of Virginia.

- (d) Farm buildings and structures lying within a flood plain or in a mudslide-prove area shall be subject to flood proofing regulations or mudslide regulations, as applicable.

(6) *Relationship to private agreements.* This chapter is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship, provided, however, that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such private agreements or legal relationships, the regulations of this chapter shall govern.

(7) *Zoning of annexed land.* Any land that is annexed from the county into an incorporated town or independent city, or that is reverted to the county from an incorporated town or independent city, shall be regulated in accord with the terms of the annexation or reversion agreement that establishes such change in governance.

(8) *Effect of chapter on existing plans, permits and lots.* Nothing contained in this chapter shall require any change in the plans or construction of any building or structure for which a permit was granted prior to December 13, 1999. If construction is discontinued for a period of six (6) months, further construction shall be in conformity with the provisions of this chapter for the district in which the operation is located.

(9) *Effect of chapter on existing districts.* At the effective date of this chapter, the previously existing Montgomery County Zoning Ordinance is hereby repealed, and this chapter replaces it in its entirety. Further, all property in Montgomery County shall retain the zoning district classification as named under the previous Zoning Ordinance except as amended and otherwise provided by this chapter. The following zoning district as named in the previous Zoning Ordinance is hereby repealed: A-2 Agricultural and Conservation.

(10) *Effective date.* This chapter shall become effective at 12:01 a.m. the day after its adoption by the Montgomery County Board of Supervisors. It is thus effective as of December 13, 1999.

(11) *Calculations of development density.*

- (a) Calculations of development density, including lot, lot area, parent tract, net and gross density for residential development, floor area ratio for nonresidential development density,

and other such terms, shall be made in accord with the formulas provided within the definitions of those terms in article VI of this chapter.

- (b) Calculations of allowable floor area ratio shall be based upon the floor area ratio as established by the zoning district in effect for the site at the time a site plan for the lot is officially accepted for review by the county.

(12) Authorization for constructing public facilities.

- (a) No public facility shall be constructed, established or authorized unless and until it has been determined by the zoning administrator to be excepted from review for conformity with the comprehensive plan, or its general or approximate location, character and extent has been formally reviewed and approved by the planning commission or board of supervisors as provided by section 15.2-2232 of the Virginia Code, as being in substantial accord with the county's adopted comprehensive plan or part thereof.
- (b) Repair, reconstruction, improvement and normal service extensions of public facilities or public corporation facilities, unless involving a change in the location or extent of a street or public area shall be deemed to be in accordance with section 15.2-2232 of the Virginia Code. For purposes of this section, widening, extension, enlargement or change of use of public streets or public areas shall not be deemed to be excepted from the requirement of review for comprehensive plan conformity.

ADOPTED By the Board of Supervisors of the County of Montgomery, Virginia, this 28th day of July, 2003.

The vote on the foregoing ordinance was as follows:

<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Absent During Vote</u>
C. P. Shorter	None	Mary W. Biggs	Annette S. Perkins
James D. Politis		John A. Muffo	
Gary D. Creed			
Larry N. Rush			

An Ordinance Amending Chapter 10, Entitled Zoning, Sections 10-21(4), 10-22(4), 10-23(4), 10-24(4), 10-25(4), 10-26(4), 10-27(4), 10-54 and 10-55

On a motion by C. P. Shorter, seconded by James D. Politis and carried unanimously,

ORDINANCE 2003 - 14

An Ordinance Amending Chapter 10, Entitled Zoning, Sections 10-21(4), 10-22(4), 10-23(4), 10-24(4), 10-25(4), 10-26(4), 10-27(4), 10-54 and 10-55 Respectively of the Code of the County of Montgomery, Virginia, Allowing the Montgomery County Board of Zoning Appeals to Grant Certain Special Use Permits

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, Chapter 10, Sections 10-21(4), 10-22(4), 10-23(4), 10-24(4), 10-25(4), 10-26(4), 10-27(4), 10-54 and 10-55 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows):

Sec. 10-21. A-1 Agricultural District.

(4)(i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Bed and breakfast inn.
- (b) Campground.
- (c) Camp, boarding.
- (d) Civic club.
- (e) Contractor's storage yard.
- (f) Country club.
- (g) Country inn.
- (h) Custom meat cutting, processing and packaging.
- (i) Day care center.
- (j) Disposal facility, landfill.
- (k) Exploratory activities associated with extractive industries.
- (l) Extractive industries and accessory uses including, but not limited to, the mining of minerals and the operation of oil and gas wells.
- (m) Game preserve.
- (n) Garden center.
- (o) General store or specialty shop, provided gross floor area is two thousand (2,000) square feet or less.
- (p) Golf course.
- (q) Golf driving range.
- (r) Grain mill, feed mill.
- (s) Home business.
- (t) Junkyard, automobile graveyard.
- (u) Kennel, commercial (refer to use limitations in subsection 7).
- (v) Landfill (see Disposal facility).

- (w) Livestock market.
- (x) Park, lighted.
- (y) Playground, lighted.
- (z) Public utility plant, other.
- (aa) Public utility substations.
- (bb) Public utility plant water or sewer (not including distribution or collection lines).
- (cc) Recreational vehicle park.
- (dd) Recycling collection points.
- (ee) Repair shop, automotive (refer to use limitations in subsection 7).
- (ff) Restaurant, provided gross floor area is two thousand (2,000) square feet or less.
- (gg) Rural resort.
- (hh) Sawmill.
- (ii) Shooting range (as principal use or accessory to a gun shop. Refer to use limitations in subsection 7).
- (jj) Slaughterhouse.
- (kk) Solid waste collection point.
- (ll) Stable, commercial.
- (mm) Structures, nonresidential, totaling in excess of twenty thousand (20,000) gross square feet.
- (nn) Structures over forty (40) feet in height.
- (oo) Telecommunications tower, freestanding.
- (pp) Flea market (also subject to requirements of article VI of the County Code).
- (qq) Impervious lot coverage greater than twenty (20) percent but less than twenty-five (25) percent.
- (rr) Stone engraving and sales.

(4)(ii) The following uses may be permitted by the Board of Zoning Appeals as special uses, subject to the requirement of this Chapter and all other applicable regulations:

- (a) Accessory structures greater than 1200 square feet in area and/or eighteen (18) feet in height.

Sec. 10-22. C-1 Conservation District.

(4)(i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Campground.
- (b) Bed and breakfast inn.
- (c) Park, unlighted.
- (d) Playground, unlighted.
- (e) Sawmill, temporary.
- (f) Structures over sixty-five (65) feet in height.

- (g) Telecommunications tower, freestanding.
- (4)(ii) The following uses may be permitted by the Board of Zoning Appeals as special uses subject to the requirements of this Chapter and all other applicable regulations:
- (a) Accessory structures greater than 1200 square feet in area and/or eighteen (18) feet in height.

Sec. 10-23. R-R Rural Residential District.

- (4)(i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:
 - (a) Bed and breakfast inn.
 - (b) Cemetery.
 - (c) Civic club.
 - (d) Country club.
 - (e) Day care center.
 - (f) Fire, police and rescue stations.
 - (g) Golf course.
 - (h) Golf driving range.
 - (i) Home business.
 - (j) Park, lighted.
 - (k) Playground, lighted.
 - (l) Public utility substations.
 - (m) Public utility plant, water or sewer.
 - (n) Stable, commercial.
 - (o) Telecommunications tower, freestanding.
 - (p) Veterinary practice, animal hospital.
 - (q) Structures over fifty (50) feet in height.
- (4)(ii) The following uses may be permitted by the Board of Zoning Appeals as special uses, subject to the requirements of this Chapter and all other applicable regulations:
- (a) Accessory structures greater than 1200 square feet in area and/or eighteen (18) feet in height.

Sec. 10-24. R-1 Residential District.

- (4) (i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all applicable regulations:

- (a) Bed and breakfast inn.
- (b) Cemetery.
- (c) Civic club.
- (d) Country club.
- (e) Day care center.
- (f) Fire, police and rescue stations.
- (g) Funeral home.
- (h) Golf course.
- (i) Home business.
- (j) Nursing home.
- (k) Park, lighted or unlighted.
- (l) Playground, lighted or unlighted.
- (m) Private club.
- (n) Public utility plant, other.
- (o) Public utility plant, water or sewer.

(4)(ii) The following uses may be permitted by the Board of Zoning Appeals as Special Uses, subject to the requirements of this Chapter and all other applicable regulations:

- (a) Accessory structures greater than 1200 square feet in area and/or eighteen (18) feet in height.

Sec. 10-25. R-2 Residential District.

(4) (i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all applicable regulations:

- (a) Bed and breakfast inn.
- (b) Cemetery.
- (c) Civic club.
- (d) Country club.
- (e) Day care center.
- (f) Fire, police and rescue stations.
- (g) Funeral home.
- (h) Golf course.
- (i) Home business.
- (j) Nursing home.
- (k) Park, lighted or unlighted.

- (l) Playground, lighted or unlighted.
 - (m) Private club.
 - (n) Public utility plant, other.
 - (o) Public utility plant, water or sewer.
- (4)(ii) The following uses may be permitted by the Board of Zoning Appeals as Special Uses subject to the requirements of this Chapter and all other applicable regulations
- (a) Accessory structures greater than 1200 square feet in area and/or eighteen (18) feet in height

Sec. 10-26. R-3 Residential District.

- (4)(i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:
- (a) Bed and breakfast homestay.
 - (b) Cemetery.
 - (c) Civic club.
 - (d) Country club.
 - (e) Day care center.
 - (f) Fire, police and rescue stations.
 - (g) Funeral home.
 - (h) Golf course.
 - (i) Home business.
 - (j) Manufactured home, Class A and Class B.
 - (k) Medical care facility.
 - (l) Nursing home.
 - (m) Park, lighted or unlighted.
 - (n) Playground, lighted or unlighted.
 - (o) Public utility plant, other.
 - (p) Public utility substations.
- (4)(ii) The following uses may be permitted by the Board of Zoning Appeals as Special Uses subject to the requirements of this Chapter and all other applicable regulations
- (a) Accessory structures greater than 1200 square feet in area and/or eighteen (18) feet in height

Sec. 10-27. RM-1 Multiple-Family Residential District.

(4)(i) Uses permissible by special use permit. The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and to all other applicable regulations:

- (a) Cemetery.
- (b) Civic club.
- (c) Country club.
- (d) Congregate care facility.
- (e) Day care center.
- (f) Dormitory.
- (g) Fire, police and rescue stations.
- (h) Funeral home.
- (i) Golf course.
- (j) Group home.
- (k) Medical care facility.
- (l) Nursing home.
- (m) Park, lighted or unlighted.
- (n) Playground, lighted or unlighted.
- (o) Public utility substations.
- (p) Senior living facility.

(4)(ii) The following uses may be permitted by the Board of Zoning Appeals as Special Uses subject to the requirements of this Chapter and all other applicable regulations:

- (a) Accessory structures greater than 1200 square feet in area and/or eighteen (18) feet in height

Sec. 10-54. Special development approvals.

(3) Special use permits.

- (a) Purpose. The special use permit procedure is designed to provide the board of supervisors and in those specific instances, the Board of Zoning Appeals with an opportunity for discretionary review of requests to establish or construct uses or structures which have the potential for a deleterious impact upon the health, safety, and welfare of the public; and, in the event such uses or structures are approved, the authority to impose conditions that are designed to avoid, minimize or mitigate potentially adverse effects upon the community or other properties in the vicinity of the proposed use or structure.
- (b) Authorized special use permit uses. Only those special use permits that are expressly authorized as such in a particular zoning district, or elsewhere in this chapter may be approved.

- (c) Review of application. The board of supervisors and in those specific instances, the Board of Zoning Appeals may permit a special use permit as part of a zoning map amendment, or by special use permit procedures at any time after a zoning map amendment.
- (d) Application. An application for a special use permit from the Board of Supervisors shall be filed, contain such material and be processed in the same general fashion as detailed for zoning amendments at subsections (1)(c) through (g). An application for a special use permit from the Board of Zoning Appeals shall be made to the zoning administrator in accordance with the rules adopted by the Board of Zoning Appeals. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the Board. The zoning administrator shall transmit a copy of the application to the Planning Commission which may send a recommendation to the Board of Zoning Appeals or appear as a party at the hearing.
- (e) Planning commission hearing. Prior to a decision by the board of supervisors each application for special use permit shall be the subject of a public hearing and a recommendation made by the planning commission.
- (f) Board hearing. A duly noticed public hearing on an application for a special use permit shall be held by the board of supervisors and in those specific instances, the Board of Zoning Appeals and a decision made by it within ninety (90) calendar days of the date on which the application was accepted for processing unless the applicant agrees to a longer time period.
- (g) Issues for consideration. In considering a special use permit application, the following factors shall be given reasonable consideration. The applicant shall address all the following in its statement of justification or special use permit plat unless not applicable, in addition to any other standards imposed by this chapter:
 - 1. Whether the proposed special use permit is consistent with the comprehensive plan.
 - 2. Whether the proposed special use permit will adequately provide for safety from fire hazards and have effective measures of fire control.
 - 3. The level and impact of any noise emanating from the site, including that generated by the proposed use, in relation to the uses in the immediate area.
 - 4. The glare or light that may be generated by the proposed use in relation to uses in the immediate area.
 - 5. The proposed location, lighting and type of signs in relation to the proposed use, uses in the area, and the sign requirements of this chapter.
 - 6. The compatibility of the proposed use with other existing or proposed uses in the neighborhood, and adjacent parcels.

7. The location and area footprint with dimensions (all drawn to scale), nature and height of existing or proposed buildings, structures, walls, and fences on the site and in the neighborhood.
8. The nature and extent of existing or proposed landscaping, screening and buffering on the site and in the neighborhood.
9. The timing and phasing of the proposed development and the duration of the proposed use.
10. Whether the proposed special use permit will result in the preservation or destruction, loss or damage of any topographic or physical, natural, scenic, archaeological or historic feature of significant importance.
11. Whether the proposed special use permit at the specified location will contribute to or promote the welfare or convenience of the public.
12. The traffic expected to be generated by the proposed use, the adequacy of access roads and the vehicular and pedestrian circulation elements (on- and off-site) of the proposed use, all in relation to the public's interest in pedestrian and vehicular safety and efficient traffic movement.
13. Whether, in the case of existing structures proposed to be converted to uses requiring a special use permit, the structures meet all code requirements of Montgomery County.
14. Whether the proposed special use permit will be served adequately by essential public facilities and services.
15. The effect of the proposed special use permit on groundwater supply.
16. The effect of the proposed special use permit on the structural capacity of the soils.
17. Whether the proposed use will facilitate orderly and safe road development and transportation.
18. The effect of the proposed special use permit on environmentally sensitive land or natural features, wildlife habitat and vegetation, water quality and air quality.
19. Whether the proposed special use permit use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the comprehensive plan.
20. Whether the proposed special use permit considers the needs of agriculture, industry, and businesses in future growth.
21. The effect of the proposed special use permit use in enhancing affordable shelter opportunities for residents of the county.

22. The location, character, and size of any outdoor storage.
 23. The proposed use of open space.
 24. The location of any major floodplain and steep slopes.
 25. The location and use of any existing nonconforming uses and structures.
 26. The location and type of any fuel and fuel storage.
 27. The location and use of any anticipated accessory uses and structures.
 28. The area of each use, if appropriate.
 29. The proposed days/hours of operation.
 30. The location and screening of parking and loading spaces and/or areas.
 31. The location and nature of any proposed security features and provisions.
 32. The number of employees.
 33. The location of any existing and/or proposed adequate on- and off-site infrastructure
 34. Any anticipated odors which may be generated by the uses on site.
 35. Whether the proposed special use permit uses sufficient measure to mitigate the impact of construction traffic on existing neighborhoods and school areas.
- (h) Conditions and restrictions. In approving a special use permit, the board of supervisors or in those specific instances the Board of Zoning Appeals may impose such conditions, safeguards and restrictions upon the premises benefitted by the special use permit as may be necessary to avoid, minimize or mitigate any potentially adverse or injurious effect of such special use permits upon other property in the neighborhood, and to carry out the general purpose and intent of this chapter. Conditions and restrictions may include, but are not limited to, those related to fencing, planting or other landscaping, additional set backs from property lines, location and arrangement of lighting, setting of reasonable time limitations and other reasonable requirements deemed necessary to safeguard the interest of the general public. The boards may require a guarantee or bond to ensure that conditions imposed will be complied with. All required conditions shall be set out in the documentation approving the special use permit.
- (i) Effect of issuance of a permit for a special use permit. The issuance of a permit for a special use permit shall not authorize the establishment or extension of any use nor the development,

construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the county, including, but not limited to, a building permit, a certificate of occupancy, site plan and subdivision approval and a zoning permit.

(j) Period of validity.

1. Authorization of a special use permit shall be void after two (2) years or such lesser time as the authorization may specify unless substantial construction has taken place, however, the board of supervisors or in those specific instances, the Board of Zoning Appeals may extend authorization for an additional period not to exceed one (1) year, upon request by the applicant.
2. If any special use authorized by this article is discontinued for a period exceeding two (2) years, it shall be deemed abandoned, and the special use permit shall be void.

Sec. 10-55. Procedures before the board of zoning appeals.

(3) Special Use Permits

Upon application, the Board of Zoning Appeals shall exercise the jurisdiction and authority to grant special use permits as authorized in this Chapter. The Special Use Permits shall be processed in accordance with the procedures, standard and limitations contained in Section §10-54(3) and other applicable law. No Special Use shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 28th day of July, 2003.

The vote on the foregoing ordinance was as follows:

<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Absent During Vote</u>
C. P. Shorter	None	Mary W. Biggs	Annette S. Perkins
James D. Politis		John A. Muffo	
Gary D. Creed			
Larry N. Rush			

An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-22(3)

On a motion by C. P. Shorter, seconded by James D. Politis and carried unanimously,

ORDINANCE 2003-15

An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-22(3)

**of the Code of the County of Montgomery, Virginia, By Deleting
Roadside Stand Operated by a Farm Owner or Operator and By
Adding Farm Enterprise, Sawmill, Temporary to Uses Permitted
By Right in the C-1 Conservation District**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia,
that Chapter 10, Section 10-22(3) of the Code of the County of Montgomery, Virginia, shall be
amended and reordained as follows:

Sec. 10-22. C-1 Conservation District

(3) Use permitted by right. The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this Chapter, and all other applicable regulations:

- (a) Agriculture
- (b) Agriculture, small scale
- (c) Bed and breakfast homestay
- (d) Cemetery
- (e) Dwelling, single family
- (f) Game preserve
- (g) Home Occupation, as defined in this Chapter
- (h) Manufactured home, Class A and Class B
- (i) Natural area
- (j) Pet, farm
- (k) Pet, household
- (l) Public utility lines, other; public utility lines, water and sewer
- ~~(m) Roadside stand, operated by a farm owner or operator~~
- ~~(n)~~ (m) Telecommunications tower, attached
- ~~(o)~~ (n) Veterinary practice, animal hospital
- (o) Farm Enterprise
- (p) Sawmill, temporary

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 28th day of July, 2003.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSENT DURING VOTE</u>
C. P. Shorter	None	Mary W. Biggs	Annette S. Perkins

James D. Politis
Gary D. Creed
Larry N. Rush

John A. Muffo

An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-41

On a motion by C. P. Shorter, seconded by James D. Politis and carried unanimously,

Ordinance 2003 -16

**An Ordinance Amending Chapter 10, Entitled Zoning, Section 10-41
of the Code of the County of Montgomery, Virginia
Changing the Definition of Accessory Structures, Eliminating
Certain Use Limitations in A-1 and C-1 Districts and by
Deleting the Supplemental Regulations Pertaining to Wayside Stands**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia that Chapter 10, Section 10-41 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

Sec. 10-41. Supplemental district regulations.

- (1) *Accessory uses and structures.*
 - (a) Accessory uses and structures are permitted in connection with, and incidental and subordinate to a permitted principal use or structure and in compliance with all other provisions of this chapter. Accessory structures shall not exceed ~~sixteen (16)~~ eighteen (18) feet in height or ~~eight hundred fifty (850)~~ twelve hundred (1200) square feet in area unless authorized by special use permit.
 - (b) Residential accessory uses and structures shall be limited to the following and to any other use or structure the zoning administrator determines to be similar in scope, size and impact as those listed herein, and are in compliance with all other provisions of this chapter:
 - 1. Above ground deck.
 - 2. Clothesline.
 - 3. Fence or wall.
 - 4. Freestanding air conditioning unit.
 - 5. Parking for motor vehicles, subject to subsection (14).
 - 6. Patio, porch, gazebo.
 - 7. Pet houses and pens.

8. Play equipment and playhouses.
 9. Private garage, carport. Maximum height and area shall be ~~sixteen (16)~~ eighteen (18) feet and ~~eight hundred fifty (850)~~ twelve hundred (1200) square feet respectively unless authorized by special use permit.
 10. Private greenhouse.
 11. Private swimming pool.
 12. Private tennis court or outdoor recreational court.
 13. Radio or satellite antennas, freestanding or on roof, setback from required yards a minimum of one (1) foot for each one (1) foot in height.
 14. Storage shed for personal, noncommercial use, and clearly subordinate to principal structure.
 15. Studios and workshops without outdoor display for personal use, and clearly subordinate to principal structure.
 16. Accessory dwellings in accord with subsection (2).
 17. Solar power panels.
 18. Enclosed areas devoted to collection of recyclable materials generated by the principal use.
 19. Bus shelter or bus stand.
- (c) Commercial and industrial accessory uses and structures shall be limited to the following and to any other use or structure the zoning administrator determines to be similar in scope, size and impact as those listed herein, and are in compliance with all other provisions of this chapter:
1. Dumpsters and dumpster pads.
 2. Emergency power generators.
 3. Fence or wall.
 4. Freestanding air conditioning unit.
 5. Parking uses and structures.
 6. Recycling facilities, in accord with subsection (7).
 7. Storage sheds, clearly subordinate to principal structure.
 8. Stormwater management facilities, BMP facilities.
 9. Bus shelter or bus stand.
 10. Accessory living quarters for watchman, guard or custodian.
 11. Sculpture, fountain, etc., clearly subordinate to principal structure.
 12. Solar power panels.
- (d) Use limitations:
1. Accessory structures shall be located on the same lot as the principal use or structure, except in the A-1 Agricultural and C-1 Conservation Districts.
 2. Accessory structures shall be included in the calculations for height, bulk and coverage as required by this chapter.
 3. Except as otherwise permitted herein and subject to subsection (8), no accessory use or structure shall be located in a required yard.

4. No accessory use or structure shall create a nuisance or hazard.
5. No accessory use or structure shall be used as a dwelling or for lodging purposes, except for living quarters for guards or custodians as provided for in subsection (c)10. above.
6. Home occupation uses shall comply with the provisions of subsection (4).
7. Accessory uses and structures shall be operated and maintained under the same ownership as the principal use.
8. No accessory uses or structures shall be established until the principal use or structure is established, except in the A-1 Agricultural and C-1 Conservation Districts.

(2) Accessory dwellings. Accessory dwellings are permitted as rental units for tenants as an accessory use in the A-1 Agricultural District, C-1 Conservation District, R-R Residential, R-1 Residential District, R-2 Residential and R-3 Residential Districts, subject to all applicable district regulations of this chapter, the issuance of a zoning permit and the following additional restrictions:

- (a) In the A-1 Agricultural District and the C-1 Conservation District, accessory dwellings are permitted provided that:
 1. No accessory dwelling shall be located on a parcel of less than five (5) acres. For parcels with more than one (1) accessory dwelling, not more than one (1) additional accessory dwelling unit is permitted per each twenty (20) acres on any single parcel, in addition to the principal dwelling. Accessory dwellings may include duplex unit types.
 2. No accessory dwelling shall exceed two thousand (2,000) square feet in floor area, except that dwellings exceeding that floor area constructed prior to adoption of this chapter may be used for tenant purposes, but may not be expanded for such purposes.
- (b) In the R-R Residential, R-1 Residential, R-2 Residential and R-3 Residential Districts, accessory dwellings are permitted provided that:
 1. An accessory dwelling that is a detached, separate structure from the principal use shall be located on a parcel of no less than one (1) acre, and no more than one (1) accessory dwelling is permitted per parcel, in addition to the principal dwelling.
 2. An accessory dwelling that is contained within the principal structure may be located on a parcel of no less than one-half (½) acre, and no more than one (1) accessory dwelling is permitted per parcel, in addition to the principal dwelling.
 3. No accessory dwelling shall exceed one thousand two hundred (1,200) square feet in floor area.

4. No less than one (1) additional off-street parking space must be provided for the accessory dwelling; such parking shall not be located in the front yard except on an existing driveway.
5. Under no circumstances shall there be a total of more than two (2) dwelling units on any single parcel.

(3) Temporary uses and permits. The following temporary activities and activities of a similar nature, subject to the conditions and restrictions set forth herein, may be approved by the zoning administrator in any zoning district through the issuance of a temporary commercial activity permit when, in the sole judgment of the zoning administrator, the public health, safety and welfare will not be impaired, and when the use is not so recurring in nature as to constitute a permanent use requiring an approved site plan.

(a) General standards. All temporary uses shall meet the following restrictions:

1. Structures shall not exceed four hundred (400) square feet in floor area nor be closer than thirty (30) feet to a public road right-of-way.
2. Entrances and exits to public roads shall be clearly marked, and located so as to provide safe access to the site.
3. Adequate on-site parking is provided for the activity intended.
4. Removal of temporary structures and all signs, materials and debris shall be guaranteed in writing and such structures shall be removed immediately upon termination of the activity, including adequate bond to ensure such removal.
5. Permits shall be valid for a period not to exceed thirty (30) days unless extended by the zoning administrator, and each event or activity on a site shall be separated by a period of not less than twenty-one (21) consecutive days.

(b) Carnivals, circuses, fairs, athletic tournaments and similar activities. Carnivals, circuses, fairs, athletic tournaments and similar activities are permitted subject to chapter 5, article II of the Montgomery County Code.

(c) Other conditions. The zoning administrator may impose additional conditions on any temporary use or activity if the administrator deems such conditions necessary to alleviate or prevent any adverse impacts, including but not limited to limitations or requirements regarding noise, hours of operation, wastewater disposal, outdoor lighting and security measures.

- (d) Construction activities. Temporary buildings and storage of materials necessary to support on-site activities for constructing buildings and structures are permitted when located on the same parcel where the construction is taking place and when limited to the duration of the construction.

(4) Home occupations and home businesses. Home occupations and home businesses, as defined in article VI of this chapter, are permitted in certain districts as provided herein, subject to the following requirements:

- (a) Members of the family residing on the premises are permitted to be engaged in such occupation or business.
- (b) For activities meeting the definition of home business, in addition to family members residing on the premises, up to two (2) nonresident, nonfamily employees (equivalent to two (2) full-time workers at forty (40) hours per week) shall be permitted, subject to one (1) additional off-street parking space being provided for each such employee. Such parking space(s) shall not be located in the required front yard, unless located on an existing driveway.
- (c) The use of the dwelling for the home occupation or business shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. The area used for the home occupation or business shall not exceed an amount equal to twenty-five (25) percent of the gross floor area of the dwelling unit.
- (d) No change shall be made to the outside appearance of the dwelling or lot, nor other visible evidence of the conduct of the home occupation or business, other than one (1) nonilluminated sign, not exceeding four (4) square feet in area on each side.
- (e) No traffic shall be generated by such home occupation or business in greater volumes than would normally be expected from a residential use. Any need for parking generated by the conduct of the home occupation or business shall be met by off-street parking other than in a required front yard unless located on an existing driveway.
- (f) No on-site retail sales, other than of items hand-crafted on the premises, nor personal services that generate traffic to the site in excess of what would normally be expected from a residential use, shall be permitted.
- (g) No equipment or process used in such home occupation or business shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses or use of radio, TV or telephone equipment off the lot or in adjacent dwelling units.

(5) Bed and breakfast establishments and rural lodging establishments. The following establishments are permitted subject to all applicable district regulations of this chapter and the issuance of a zoning permit:

(a) Bed and breakfast homestay.

1. The owner of the premises shall reside in and manage the establishment.
2. The establishment shall not contain restaurant facilities, but may provide food service for transient, overnight guests only.
3. Up to five (5) guest rooms may be provided for paying guests.
4. Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in subsection (3).

(b) Bed and breakfast inn.

1. The owner or manager shall provide full-time management of the establishment at all times when the facility is occupied by one (1) or more guests.
2. The establishment shall not contain restaurant facilities, but may provide food service for transient, overnight guests only.
3. Up to fifteen (15) guest rooms may be provided for paying guests.
4. Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in subsection (3).
5. The establishment shall be located on a public road, and the site shall have safe access from the public road.

(c) Country inn.

1. The owner or manager shall provide full-time management of the establishment at all times when the facility is occupied by one (1) or more guests.
2. The establishment may contain full-service restaurant facilities that provide meal service to guests and to the general public.
3. Up to thirty (30) guest rooms may be provided for paying guests.
4. Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in subsection (3).

5. The establishment shall be located on a public road, and the site shall have safe access from the public road.

(d) Rural resort.

1. The establishment shall be located on parcels no less than twenty-five (25) acres, of which no less than eighty (80) percent of the site shall remain in open space uses.
2. The establishment may contain full-service restaurant facilities that provide meal service to guests and to the general public.
3. More than thirty (30) guest rooms may be provided for paying guests.
4. All new buildings, active recreational areas, parking and lighted areas shall be set back a minimum of two hundred (200) feet from adjacent properties.
5. The establishment shall be located on a public road, and the site shall have safe access from the public road.

~~(6) Wayside stands (roadside stand):~~

~~(a) Merchandise sold at wayside stands shall be limited to farm and garden products grown by the owner/operator or accessory products produced by the owner/operator such as pottery, baskets and other craft items.~~

~~(b) Entrances and exits to the wayside stand from public roadways shall be clearly delineated and shall provide safe access to the site~~

(6) ~~(7)~~ Recycling and solid waste collection facilities.

(a) Recycling and solid waste collection points shall be subject to the following restrictions:

1. The facility shall be set back a minimum of fifty (50) feet from the right-of-way of any public street or any lot zoned, used or planned for residential purposes.
2. Collection sites shall be maintained free of litter, shall be cleaned of debris on a daily basis.
3. All facilities shall be screened from the view of abutting residential uses or districts by fences and landscaping conformance with the requirements of section 10-44(3) of this chapter for light industrial uses abutting a residential use.

4. Containers shall be at least one hundred fifty (150) feet from any residential dwelling.
 5. No hazardous or toxic materials shall be accepted or permitted at such sites.
 6. No noxious odors shall be emitted beyond the boundaries of the facility.
- (b) Other recycling and solid waste collection facilities shall be subject to additional conditions as may be imposed by the county through the special use permit process.
- (7) ~~(8)~~ Permitted structures in required yards.
- (a) For any yard, including front yards, the following structures shall be permitted, provided applicable sight distance and fire safety requirements are met and maintained:
1. Fences, provided that no fence in a front yard of a residential district shall exceed four (4) feet in height.
 2. Ground level terraces, patios or decks not over thirty (30) inches high which do not include a permanently roofed-over terrace or porch.
 3. Awnings or canopies provided they do not project more than eight (8) feet from the existing building face.
 4. Bay windows and overhanging eaves or gutters projecting no more than four (4) feet into the yard.
 5. Architectural features, chimneys, or the like, projecting a maximum of three (3) feet into any yard, provided that such projection does not reduce the width of a yard to less than three (3) feet.
 6. Covered entry porches, enclosed or unenclosed, may project a maximum of four (4) feet provided such projection does not reduce the width of the yard to less than three (3) feet.
 7. Arbors and trellises not exceeding ten (10) feet in height, provided that such structures do not reduce the width of the yard to less than three (3) feet.
 8. Flag poles.
 9. Recreational equipment, provided that such equipment does not reduce the width of the yard to less than three (3) feet.

(b) For any yard in a residential district, except front yards, the following structures shall be permitted, provided applicable sight distance and fire safety requirements are met and maintained:

1. Clotheslines.
2. Fences shall not exceed eight (8) feet in height in residential areas.
3. Balconies projecting a maximum of four (4) feet provided they do not reduce the width of the yard to less than three (3) feet.
4. Air conditioners rated at twenty-four thousand (24,000) BTU or less which do not discharge air within six (6) feet of any lot line, and air conditioners greater than twenty-four thousand (24,000) BTU which do not discharge air within twelve (12) feet of any lot line.
5. In conjunction with single-family dwellings only, small sheds, pet houses and pens, provided that such structures:
 - a. Are not in excess of one hundred fifty (150) square feet in floor area.
 - b. Not in excess of twelve (12) feet in height.
 - c. At least fifty (50) feet from any street right-of-way or private access easement at the front of the lot.
 - d. At least twenty (20) feet from any street right-of-way or private access easement at the rear of the lot.
6. Decks exceeding thirty (30) inches in height may be permitted in rear yards provided that they are no closer than twenty (20) feet to a property line.

(8) ~~(9)~~ Condominium conversion. In all zoning districts, a structure or use may convert to condominium ownership only if all requirements of this zoning ordinance, the subdivision ordinance, the comprehensive plan, and all other applicable ordinances can be met. There shall be no vested right to convert to condominium ownership without such conformance, however, conversion may be allowed without such conformance with a special use permit, or, if otherwise authorized, a variance.

(9) ~~(10)~~ Number of dwelling units per parcel. Except as provided for in the provisions for accessory dwelling units in section 10-41(2) and for multifamily or condominium dwellings as provided herein, no greater than one (1) dwelling unit shall be permitted per parcel for single-family residential uses.

(10) ~~(11)~~ Visibility at intersections.

- (a) For protection against traffic hazards, no sign, fence, wall, hedge, planting or other obstruction to vision extending to a height in excess of three (3) feet above the established street grade shall be erected, planted or maintained within the area of a corner lot that is included between the lines of the intersecting streets and straight line connecting them at points a distance of twenty (20) feet from the intersection of the street lines.
- (b) Exceptions to the above requirements may be permitted by the zoning administrator when terrain features present substantial obstacles to provision and maintenance of such visibility triangles, but in such cases, the minimum clearance required shall be the maximum which is reasonably practicable to provide and maintain in the sole determination of the zoning administrator.

(11) ~~(12)~~ Interparcel connections. In every district, projects shall be laid out so as to provide vehicular interparcel connections with surrounding properties, in a location and design consistent with this chapter and the comprehensive plan, provided that the zoning administrator determines that such connections will not promote inappropriate cut-through traffic inconsistent with the design and function of the roadway and adjacent land uses in the district.

(12) ~~(13)~~ Storage of inoperable vehicles.

- (a) Inoperable vehicles shall be permitted to be stored only in a lawful motor vehicle graveyard or in a lawful, licensed motor vehicle repair facility.
- (b) Not more than one (1) inoperable vehicle may be parked outside a building at any time in any residential or agricultural district.

(13) ~~(14)~~ Limitations on vehicles and parking in residential districts.

- (a) Parking areas in front yards shall be limited to the area contained in paved or gravel driveways.
- (b) Parking of not more than one (1) commercial vehicle associated with an approved home occupation or home business shall be permitted, provided that such vehicles shall not include any tractor trailer or vehicle exceeding one and one-half (1 ½) ton capacity. Parking for such vehicles shall not be in any required front or side yard.
- (c) Parking of small cargo trailers and recreational vehicles or equipment in a residential district including but not limited to boats, boat trailers, camping trailers, travel trailers, motorized dwellings, tent trailers, houseboats and horse vans, are subject to the following limitations:

1. Such equipment shall not be used for living, sleeping or other occupancy when parked or stored on a residential lot or in any other location not approved for such occupancy use.
 2. Such equipment six (6) feet or more in average height, not parked or stored in a garage, carport or other structure, shall not be located in any required front or side yard and shall be located at least three (3) feet from all buildings.
- (d) Outdoor storage or overnight parking of buses, trucks or other vehicles exceeding one and one-half (1 ½) ton capacity shall not be permitted in residential districts on lots of less than two (2) acres.

~~(14)~~ ~~(15)~~ Screening of storage containers. Storage containers used for shipping purposes or truck compartments or trailers shall be screened from view of public rights-of-way and adjacent uses. This standard shall not apply to any lawful agricultural operation.

~~(15)~~ ~~(16)~~ Intensive agriculture.

- (a) Special definitions for this subsection.

Livestock: All domestic or domesticated bovine animals, including but not limited to cattle, equine animals including horses, ovine animals including sheep, porcine animals including hogs.

Intensive agriculture: Intensive agriculture involves the raising, breeding and keeping of animals in concentrated, confined conditions, which may include such operations as swine, veal, sheep; houses and pens for poultry or other fowl; feed lots for beef, dairy cattle, swine, sheep and other animals; livestock markets and pet farms.

Intensive agriculture facility (also "livestock facility"): An intensive agriculture facility is any enclosed field, range, pen or building where three hundred (300) or more total animal units are confined or housed for either more than forty-five (45) consecutive days or more than ninety (90) total days in any part of any twelve-month period, and crops, vegetation, forage growth or post-harvest residues are not sustained over any significant portion of such field, range, pen, or building. Any poultry operation containing ten (10) or more animal units in a single enclosed field, range, pen or building, or twenty (20) or more animal units on a single tract.

Equivalent of 300 animal units:

- 300 slaughter or feeder cattle
- 750 swine
- 150 horses

- 3,000 sheep or lambs
- 200 mature dairy cattle
- 16,500 turkeys
- 30,000 laying hens or broilers

Livestock, dairy, poultry structure: Any building, structure, installation, storage container, or storage site used in the operations of an intensive livestock, dairy or poultry facility, including, but not limited to, feed storage bins, litter storage sites, incinerators, manure storage sites, swine or poultry house, livestock or poultry disposal pits and dead livestock or poultry cold storage chests.

Livestock raiser, dairy operator, poultry grower: The owner or operator of the livestock, dairy or poultry facility, or the land on which such facility is located.

Existing dwelling: A residential dwelling which is occupied or suitable for occupancy or which has been issued a building permit on or before the date a zoning permit for an intensive agricultural facility has been approved by the zoning administrator.

Existing livestock, dairy, poultry facility: An intensive agriculture facility which has been in operation for a one-year period within the five (5) years immediately preceding the date on which a zoning permit is sought for a dwelling.

Applicant: An owner, operator or potential operator of an intensive agricultural facility who submits any application associated with the requirements of this section.

(b) Acreage requirements. The minimum number of acres on which an intensive livestock, dairy or poultry facility may be established shall be as follows:

1. Intensive poultry facility: Fifty (50) acres or the number of acres required by the nutrient management plan as provided for in subsection (16)(g), whichever is greater.
2. Intensive beef, swine or dairy cattle facility: One hundred (100) acres or the number of acres required by the nutrient management plan as provided for in subsection (16)(g), whichever is greater.

All such acres required to meet the minimum acreage as defined in (b)1. and (b)2. for any one intensive facility or operation need not be contiguous provided that all of the minimum required acreage is in the same ownership, or the operator has a written agreement with the landowner acceptable to the county, for use and access to the land in accord with the provisions of the approved nutrient management plan and provisions of this section.

Intensive facilities of all types which are in operation as of the effective date of this chapter which do not meet the acreage requirements set forth herein shall be considered nonconforming uses, subject to the provisions of section 10-47(4) regarding nonconforming uses.

- (c) Setbacks from existing uses. Except for existing dairy operations and beef cattle feedlot operations specified below, all intensive livestock, dairy or poultry structures, as defined herein, shall be set back from any existing use at the time of establishment of the intensive agriculture operation or facility, as follows:
1. From an existing dwelling in the A-1 agriculture or C-1 conservation districts not owned by the operator: Three hundred (300) feet.
 2. From an existing dwelling in a residential district: Five hundred (500) feet.
 3. From existing churches, platted residential subdivisions, residential zoning districts, mobile home parks, schools, parks, playgrounds, incorporated towns, or public water facilities such as impoundments, wells or treatment plants: One thousand (1,000) feet.
 4. From property lines and public rights-of-way: Three hundred (300) feet.
 5. No intensive livestock facilities or structures shall be located within the floodplain as defined herein.
 6. From an existing river or perennial stream: Five hundred (500) feet, which may be reduced to one hundred (100) feet if a planted grass filter strip at least fifty (50) feet in width is maintained.

All existing dairy operations and beef cattle feedlot operations need not meet the above setbacks from existing uses until such time that their number of animal units confined or housed totals three hundred (300) animal units plus the average number of animal units they confined or housed during calendar year 1999. For each qualifying operation, the Virginia Cooperative Extension Service shall determine the average number of animal units confined or housed during 1999 and report this number to the board of supervisors not later than March 31, 2000.

- (d) Setbacks from existing livestock, dairy or poultry facilities. Each new dwelling not owned by the operator shall be set back from all existing livestock, dairy or poultry structures a minimum of three hundred (300) feet.
- (e) Certified plat required. The owner of an intensive facility completed after the effective date of this chapter shall file with the zoning administrator a plat (or similar documentation satisfactory to the zoning administrator) showing all of the parcels on which the facility is

located and also showing the location of the facility within the parcel or parcels. With this plat, the owner shall submit a written statement, sworn to and subscribed before a notary public, by which the owner certified to the zoning administrator that the intensive facility shown on the plat meets all applicable setback requirements of this chapter.

(f) Facility development plans.

1. Prior to receiving a zoning permit, an applicant (operator or potential operator) shall submit to the zoning administrator a development plan which accurately shows the number, size and location of livestock, dairy or poultry structures and facilities for the subject property. Within thirty (30) days of acceptance of the plan, the zoning administrator shall review it and either approve the plan or provide the applicant with a written description of the portion(s) of the plan that do not comply with this chapter.
2. The development plan shall remain in force until completion of the proposed structures or for up to five (5) years, whichever is less. Any modifications to such structures or addition of new structures shall require the same procedures as provided in section 10-41(16)(f)1.

(g) Nutrient management plans.

1. After the effective date of this chapter, no intensive facility shall commence operation until a nutrient management plan for the proposed facility has been prepared by the applicant and:
 - a. Reviewed and approved by the Virginia Cooperative Extension Service or by a person certified or employed by the Commonwealth of Virginia as a nutrient management planner.
 - b. Submitted to the zoning administrator for informational purposes.
2. If off-site disposal is part of the nutrient management plan, the applicant shall provide, as part of that plan, written documentation of an agreement with the receiver of the wastes produced at the applicant's facility or an affidavit, sworn and subscribed before a notary public, that states the applicant's commitment to dispose of the wastes through sale in retail establishments or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application of use of the wastes.
3. A nutrient management plan containing such an agreement shall be valid only as long as agreement remains in force and shall be reviewed whenever such an agreement expires or is terminated by either party. The operator shall notify the

zoning administrator whenever such an agreement is terminated before its stated expiration date within fifteen (15) days of such termination. The nutrient management plan shall be reviewed and updated every five (5) years by the Virginia Cooperative Extension Service or by a person certified or employed by the Commonwealth of Virginia as a nutrient management planner and by the zoning administrator, and updated by the operator as necessary to meet the requirements of this chapter.

4. The nutrient management plan shall provide for the safe disposal of one hundred (100) percent of the animal waste produced at the facility. Disposal or use shall be accomplished by means of land application at agronomic rates, as established by the Virginia Cooperative Extension Service or by the county. Alternative methods of disposal may be provided in the nutrient management plan subject to approval by the zoning administrator.
5. The nutrient management plan shall take into consideration, among other things, the presence of rivers, streams and private wells, springs and sinkholes, slope, soil and geological features that may indicate a susceptibility to groundwater contamination.
6. Disposal of dead animals shall be provided by operator in accord with the requirements of the Commonwealth of Virginia.

(16) ~~(17)~~ Prohibited use of manufactured homes.

- (a) A manufactured home shall not be used for the purpose of an accessory use, such as a separate storage facility except as permitted in subsections 1 and 2 below.
 1. Emergency uses of individual manufactured homes shall be allowed in all residential districts where a natural disaster or fire has destroyed or damaged normal dwellings. This emergency use would alleviate the hardships inflicted on the people involved. A temporary manufactured home permit shall be required prior to the placement of the manufactured home and the zoning administrator shall set the time period that such use is permitted. The zoning administrator may grant one (1) extension of the time period of up to six (6) months.
 2. Manufactured homes shall be permitted as temporary offices or storage structures (not for permanent residential use) in business, industrial or residential districts in the construction phase of buildings or other construction projects in such districts. A temporary manufactured home permit shall be required prior to the placement of the manufactured home and the zoning administrator shall set the time period

that such use is permitted. The zoning administrator may grant one (1) extension of the time period of up to six (6) months.

- (b) An individual manufactured home shall not be attached to another manufactured home, travel trailer or single-family dwelling.

(17) ~~(18)~~ Private streets.

- (a) Design. Private streets shall be hard-surfaced roads designed and certified by a professional engineer to meet current VDOT subdivision street requirements.
- (b) Entrance. The entrance point of any private street onto a public street shall comply with applicable VDOT entrance requirements.
- (c) Subdivision ordinance. Private streets shall comply with applicable subdivision ordinance requirements including the requirement that a statement be included on the subdivision plat and in each deed stating that the streets are private streets and that the streets do not meet state standards, if applicable, and will not be maintained by the state or county. If the property owners association officially petitions to dedicate the necessary right-of-way to the state or county then the association shall pay the full cost to bring the street up to state standards.

(18) ~~(19)~~ Farm enterprises. Farm enterprises, as defined in Article VI of this chapter, are permitted in the A-1 Agriculture District subject to the following requirements:

- (a) The gross floor area of any structure(s) devoted to the farm enterprise use shall not exceed two thousand (2,000) square feet.
- (b) In addition to family members residing on the farm or the farm operators, up to two (2) nonresident, nonfamily employees (equivalent to two (2) full-time workers at forty (40) hours per week) are permitted to be engaged in the enterprise on an annual basis.
- (c) Structures and parking areas shall be located at least one hundred (100) feet from any residential zoning district and adjacent dwellings, other than the owner's dwelling.
- (d) At least thirty (30) percent by retail value of the products sold from the farm enterprise on an annual basis shall have been grown or produced on the farm.
- (e) Hours of operation shall be limited to the hours between 7:00 a.m. and 10:00 p.m.
- (f) One sign shall be permitted and shall be non-illuminated and not exceed twenty (20) square feet in area.
- (g) The enterprise must front on at least one public road.

ADOPTED by the Board of Supervisors of the County of Montgomery, Virginia, this 28th day of July, 2003

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSENT DURING VOTE</u>
C. P. Shorter	None	Mary W. Biggs	Annette S. Perkins
James D. Politis		John A. Muffo	
Gary D. Creed			
Larry N. Rush			

An Ordinance Amending Chapter 10 Entitled Zoning, Section 10-61

On a motion by C. P. Shorter, seconded by James D. Politis and carried unanimously,

ORDINANCE 2003 - 17

**An Ordinance Amending Chapter 10 Entitled Zoning,
Section 10-61 by Changing the Definitions for
Automobile Graveyard; Garage; Private Home Occupation;
Inoperative Motor Vehicle; Roadside Stand and Wayside Stand**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 10, Section 1-61 of the Code of the County of Montgomery Virginia shall be amended and reordained by changing or deleting the following definitions:

Sec. 10-61. Definitions.

Automobile grave yard: Any lot or place which is exposed to the weather and upon which ~~two (2)~~ ~~or~~ more than five (5) inoperative vehicles are placed, located or found. An automobile graveyard is considered to be a junkyard.

Garage, Private: Accessory building designed or used for the storage of not more than three (3) automobiles, sport utility vehicles or similar small trucks per dwelling unit served, such vehicles being owned or leased and used by the occupants of the principal building to which it is accessory, with no facilities for

mechanical service or repair of a commercial or public nature. On a lot occupied by a multi-unit dwelling, the private garage may be designed and used for the storage of one and one-half (1.5) times as many automobiles as are dwelling units. Maximum height and area shall be ~~sixteen (16)~~ eighteen (18) feet and ~~eight hundred fifty (850)~~ twelve hundred (1200) square feet respectively unless authorized by Special Use Permit.

Home Occupation: A business actively carried on solely by the resident(s) of a dwelling, as a clearly incidental and subordinate use of the residential dwelling or accessory dwelling, in which the on-site business activity ~~is conducted wholly within the dwelling with~~ generates no exterior impacts such as traffic, parking demand, noise, vibrations, glare, odors or electrical interference and the residential appearance of the dwelling and the character of the neighborhood is maintained.

Inoperative motor vehicle: Any motor vehicle which is not in operating condition or which for a period of ~~ninety (90)~~ sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. This definition shall not apply to vehicles exempted under the provisions of Sections ~~46.1-42 through 46.1-49~~ 46.2-650 through 46.2-653, 46.2-663 through 46.2-680, 46.2-723, 46.2-750, 46.1-119 and 46.1-120 of the Code of Virginia. This definition shall not apply to vehicles in a public landfill.

~~Roadside Stand: See "Wayside Stand".~~

~~Wayside stand or roadside stand: Any structure or land used for the sale of agricultural or horticultural produce, livestock or merchandise produced by the owner or the owner's family on their farm.~~

ADOPTED, by the Board of Supervisors of the County of Montgomery, Virginia this 28th day of July, 2003.

The vote on the foregoing ordinance was as follows:

<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
C. P. Shorter	None	Mary W. Biggs
James D. Politis		John A. Muffo
Gary D. Creed		
Annette S. Perkins		
Larry N. Rush		

NEW BUSINESS

On a motion by Annette S. Perkins, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that **authorization to proceed with the courthouse renovation project** is hereby **tabled to the August 13, 2003 meeting** when all Board members will be present.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	Mary W. Biggs
James D. Politis		John A. Muffo
C. P. Shorter		
Gary D. Creed		
Larry N. Rush		

Reimbursement Resolution Relating to the Renovations of the Montgomery County Courthouse and the Montgomery County Government Center - Building C Project

On a motion by Annette S. Perkins, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the **reimbursement resolution relating to the renovations of the Montgomery County Courthouse and the Montgomery County Government Center-Building C Project** is hereby **tabled to the August 13, 2003 meeting** when all Board members will be present.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Annette S. Perkins	None	Mary W. Biggs
James D. Politis		John A. Muffo
C. P. Shorter		
Gary D. Creed		
Larry N. Rush		

Rural Rustic Road Program - Coal Hollow Road (SR 705)

On a motion by C. P. Shorter, seconded by James D. Politis and carried unanimously,

WHEREAS, During the 2002 session of the General Assembly, legislation was passed to revise §33.1-70.1 of the code of Virginia, to allow for the improvement and hard surfacing of certain unpaved roads deemed to qualify for and be designated a Rural Rustic Road; and

WHEREAS, Such roads must be located in a low-density development area and have a minimum of 50 vehicles per day (vpd), and have no more than 500 vpd; and

WHEREAS, This Board is unaware of pending development that will significantly affect the existing traffic on Coal Hollow Road (SR 705); and

WHEREAS, The citizens that utilize this road have been aware of this road being paved with minimal improvements; and

WHEREAS, This Board believes Coal Hollow Road (SR 705), Montgomery County, should be designated a Rural Rustic Road, from: 0 .6 mi. N. Route 114. to: 1.8 mi. N. Route 114 owing to its qualifying characteristics; and

WHEREAS, The road aforesaid is in this Board's six-year plan for improvements to its secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby designates and requests VDOT's Resident Engineer to concur in Coal Hollow Road (SR 705) as a Rural Rustic Road.

BE IT FURTHER RESOLVED, This Board requests that Coal Hollow Road (SR 705) be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state.

BE IT FURTHER RESOLVED, That a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
C. P. Shorter	None	Mary W. Biggs
James D. Politis		John A. Muffo
Annette S. Perkins		
Gary D. Creed		
Larry N. Rush		

Resolution in Support of Virginia's Students

On a motion by Annette S. Perkins, seconded by James D. Politis and carried unanimously,

WHEREAS, Many students in Virginia's public schools are at-risk of not learning what is required

to earn a high school diploma, enroll in a college or university or enter the job market, and even the successful students who graduate are affected by schools struggling to provide the level of educational quality they need and deserve; and

WHEREAS, Teachers often find they do not have the tools or training necessary to teach the subjects mandated for achievement of state standards and teachers' salaries and the uncertain state support of salaries do not provide the kind of incentives that attract and keep the most talented professionals; and

WHEREAS, State funding for public education does not reflect the true cost of constructing, staffing, equipping, operating and maintaining schools that perform at the level needed to support the foundation for standards of quality and learning, and the costs of educating at-risk students create additional fiscal pressures on many school systems; and

WHEREAS, Not only are students being left behind, taxpayers are seeing the increasing burden of higher local real estate tax rates as local governments try to pay both their share and the state's share of education costs, and, when Virginia's students plan for higher education, they face additional challenges because legislative reports also have verified that appropriate levels of funding have not been achieved for higher education, and one of the worst results of reduced funding for college students is that so many qualified Virginia students are denied admission because the faculty, buildings, and equipment are simply not there to accommodate them; and

WHEREAS, The effects of being left behind without a high school diploma or a college degree, especially for an at-risk student, are compelling; a Virginian who has a high school diploma earns a lot more than one who does not; a degree from a community college means more, and a four-year college degree means even more; education literally pays, in addition to its other quality-of-life benefits.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia urges the elected members of the General Assembly to commit to work for additional state dollars to fully fund the actual costs of the Standards of Quality and the legislative guidelines for higher education funding; these actions are essential if our elementary, middle and high schools, community colleges and four-year colleges and universities are to meet the following goals:

1. Smaller classes in schools and colleges where teachers and faculty can provide students the individual attention they need to learn and graduate on time.
2. Sufficient numbers of well-qualified teachers and faculty to give every student the opportunity to graduate from high school and to have access to higher education and opportunities for training and skill development.
3. Competitive salaries to attract and keep well-qualified teachers and faculty to help students learn.
4. Modern, safe classrooms, laboratories, technology and equipment to provide the environment in which students learn best.

5. Accountability and performance measurement at all levels for students, teachers, faculty, administrators and others responsible for helping students learn.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
C. P. Shorter	None	Mary W. Biggs
James D. Politis		John A. Muffo
Annette S. Perkins		
Gary D. Creed		
Larry N. Rush		

COUNTY ADMINISTRATOR'S REPORT

School Board - Use of Building "C" It was the consensus of the Board that the County Administrator write a letter to the School Superintendent and ask him to get a definitive answer from the School Board on their willingness to move school administration offices into Building "C" at the Montgomery County Government Center once the courts have vacated the facilities.

BOARD MEMBERS' REPORTS

Supervisor Perkins reported Supervisor Biggs was in Northern Virginia due to illness in the family. She sends her regrets that she was unable to attend the meeting tonight.

VACo Campaign Supervisor Perkins asked the Board members to e-mail any comments to her concerning the VACo Campaign and she will relay them to VACo at the annual LGOC conference.

League of Women Voters Supervisor Perkins reported that the League of Women Voters has scheduled a tentative date for the Candidate Forum for September 25, 2003 from 7 p.m. - 9 p.m.

Virginia Tech/Executive Airport Supervisor Perkins reminded the Board members of the invitation to attend the picnic/open house on August 15, 2003, 5:30 - 7:30 p.m.. The new director will be introduced.

Radford University An invitation has been extended for candidates running for the senate to Radford University to discuss educational issues.

Supervisor Politis Consolidated Collection Sites - Supervisor Politis received a request to consider

opening the Consolidated Collection Sites at 1:00 p.m. on Sundays instead of 12 noon.

INTO CLOSED MEETING

On a motion by James D. Politis, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Discipling or Resignation of Specific Public Officers, Appointees or Employees

1. Social Services Board

(7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel

1. Community Housing Partners Rezoning

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Mary W. Biggs
James D. Politis		John A. Muffo
Annette S. Perkins		
C.P. Shorter		
Larry N. Rush		

OUT OF CLOSED MEETING

On a motion by James D. Politis, seconded by C.P. Shorter and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Mary W. Biggs
James D. Politis		John A. Muffo
Annette S. Perkins		
C.P. Shorter		
Larry N. Rush		

CERTIFICATION OF CLOSED MEETING

On a motion by Gary D. Creed, seconded by C.P. Shorter and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

Gary D. Creed
Annette S. Perkins
James D. Politis
C.P. Shorter
Larry N. Rush

NAYS

None

ABSENT DURING VOTE

Mary W. Biggs
John A. Muffo

ABSENT DURING MEETING

Mary W. Biggs
John A. Muffo

APPOINTMENTS

Social Services Board

On a motion by Gary D. Creed, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby appoints **Judy Diggs** to the **Social Services Board** effective July 29, 2003 and expiring July 28, 2007.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Mary W. Biggs
James D. Politis		John A. Muffo
Annette S. Perkins		
C.P. Shorter		
Larry N. Rush		

ADJOURNMENT

On a motion by Gary D. Creed, seconded by James D. Politis and carried unanimously, the Board adjourned to Wednesday, August 13, 2003 at 7:15 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Gary D. Creed	None	Mary W. Biggs
Annette S. Perkins		John A. Muffo
James D. Politis		
C.P. Shorter		
Larry N. Rush		

The meeting adjourned at 9:10 p.m.

ATTEST:

Larry N. Rush, Chair

Jeffrey D. Johnson County Administrator